

Dewan.—Do you really feel that the system of *Makkathayam* can, with advantage, be introduced in *Marumakkathayam* families? Is it proper for the Government to effect such radical changes in the method of inheritance?

Member.—If any community find that their law of inheritance and succession is defective and not suited to their present day requirements, it is very necessary that the Government should readily respond to their prayer for altering the law to their advantage. I submit that the legislature has complete power to alter the law of succession of any community.

Dewan.—Even if the legislature had the power, would it be desirable or expedient to exercise it, especially in a matter which involves radical changes in the long-standing method of succession in a community?

Member.—What I submit for the kind consideration of Government is that, unless some such arrangement as I suggested is made, the Nair community would become practically extinct in the course of the next thirty years.

The Member submitted that the baneful effects of the *Marumakkathayam* system were well known, that the junior members had no individual credit and had no impetus to work and that the *Karanavans* did not, in the majority of instances, realize their responsibilities. The Member failed to see why the *Makkathayam* system, which was the natural system and which was followed by most of the other sections of the population, should not, with advantage, be adopted by the Nair community also. Public opinion was also strong in favour of the reforms advocated by him.

The Member then presented a memorial signed by about 7,000 members of the Nair community in the several taluks of the State, praying for the grant of a law of individual partition.

Mr. M. N. Narayana Menon (Member, Kottayam Taluk) dwelt at length on the many disadvantages under which the Nair community was labouring on account of the absence of a law of partition. He pointed out that the main contention of the members of the community at the time they asked for a *Marumakkathayam* Committee was that the law of partition should be given to them, that the cry for partition began more than 50 years ago, and that there was a strong consensus of public opinion favouring individual partition. He then quoted the opinions of many eminent statesmen and leaders of the community advocating the desirability of allowing individual partition in Nair *Tarawads*. He also regretted that the Bill recently introduced into the Legislative Council for allowing *thavazhee* partition in Nair *Tarawads* was rejected by Government in the face of the unanimous opinion of all the non-official members of the Council. Since 1072, there had been several cases of partition in Nair *Tarawads* in North Travancore and the result was that many families which would otherwise have gone to ruin had been saved. The fear entertained that the families would be ruined by allowing partition was, therefore, unfounded, as experience had shown that the result of partition was advantageous. The Member, in conclusion, prayed that the Government might be pleased to confer on the Nair community the boon of a law allowing individual partition with a view to mitigate the evils complained above.

Dewan's reply.—The representations made by the several Members and the memorial presented by Mr. K. Govinda Pillai will be carefully considered.

31. Amendments to the Village Panchayat Courts Regulation.

Mr. S. Ganapathi Pillai (Member, Trading Classes, Trivandrum) said that the Village Panchayat Courts were in existence for the last $1\frac{1}{2}$ years and that the experience gained so far had revealed the necessity for amending certain sections of the Village Panchayat Courts Regulation, I of 1090.

(1) Sections 5 and 10 related to the establishment and pecuniary jurisdiction of Village Panchayat Courts. In the opinion of the Member, the pecuniary jurisdiction should be generally raised from Rs. 30 to Rs. 50. The Panchayat Courts

should, on the recommendation of the High Court in individual cases, be also invested with powers to try suits up to a money value of Rs. 100.

The territorial jurisdiction was identical with that of the Town Improvement Committees and might, with advantage, be made concurrent with that of the local Munsiffs. The change would not only give an additional status to the Village Panchayat Courts but also bring about a material reduction in the small cause file of the Munsiffs' Courts.

(2) Section 12 authorized the Village Panchayat Courts to try only suits the defendants in which resided or carried on business or personally worked for gain within their jurisdiction at the time of the commencement of a suit. Instances were not wanting where defendants who had two houses, one within and the other outside the jurisdiction of the court, evaded the processes by a wilful and temporary change to the house outside its jurisdiction. To obviate such a state of affairs, the Member suggested that section 12 be so amended that all suits the cause of action in which arose within the jurisdiction of a Village Panchayat Court should be instituted in such court.

(3) Section 17 made specific mention of the Travancore Limitation Regulation, II of 1062, and declared that the provisions of that Regulation should apply to suits and applications under the Village Panchayat Courts Regulation. No mention was made of the other Regulations such as the Succession Certificate Regulation, the Stamp Regulation, &c. Some argued, therefore, that the Village Panchayat Courts Regulation was a self-contained one and that the judges should not go beyond its four corners. Others thought that the above mentioned Regulations were also binding upon the Panchayat Courts, in the absence of a specific provision to the contrary in the Regulation. As there was some doubt on the point, the Member suggested that the section should be suitably amended to make the intention of the legislature clear.

(4) Section 37 provided that the Village Panchayat Court might, if it thought fit on the application of the plaintiff or defendant, issue process to compel the attendance of any witness or the production of any document. Doubts having arisen as to how far the compulsion could be enforced, the courts had chosen to stop with the issue of summons. There were witnesses who refused to accept summons, or having accepted summons, failed to appear in court. As the section stood at present, there was no provision to secure the attendance of evading witnesses.

Dewan.—What is the present provision on the subject? Has no penalty been prescribed for refusal to accept summons or for failure of attendance on receipt of summons?

Member.—The Regulation prescribes no penalty. It only provides that the courts should issue process to compel the attendance of witnesses.

Dewan.—Certainly, the Village Panchayat Courts should have the power of compelling witnesses to appear before them. Some power to punish the defaulters is also necessary.

The Member then suggested that Sections 163 to 170 of the Civil Procedure Code relating to the powers to compel attendance of witnesses be introduced in the Village Panchayat Courts Regulation also.

Dewan.—Do you think that all the provisions of the Civil Procedure Code on the subject should be introduced in the Village Panchayat Courts Regulation?

Member.—Most of them are necessary.

(5) Section 52 declared that no judgment-debtor should be arrested and no immovable property attached by a Village Panchayat Court in execution of a decree. On account of that provision nearly 90 per cent. of the cases requiring execution were being transferred to the Munsiff's Court for realizing money by the arrest of the judgment-debtor. It was not necessary to saddle the Munsiffs with the above task. If the

Panchayat Courts could be armed with powers to attach movables, there was no reason why the same courts should not be empowered to arrest judgment-debtors. A provision should, therefore, be made in the Regulation authorising Panchayat Courts to arrest judgment-debtors.

(6) Section 76 related to the levy of institution fees by a Village Panchayat Court. There was no uniformity in the application of the section in the several courts. Those papers that need not be charged with court-fees were expressly mentioned therein. Petitions and *Vakkalaths* did not come under that exemption. They were not charged with court-fee in some courts, while, in others, court-fee was levied on *Vakkalaths* alone. As the wording of the section was not free from doubt, it would be well to define clearly what documents should and what should not be charged with court-fee.

As the registers and forms required for refund of court-fee were not supplied by the High Court, there were reasons to believe that refund was not contemplated by section 76, though there was nothing in it which expressly prevented it. The Member prayed that an authoritative ruling on the above point might be passed.

Dewan's reply.—All the suggestions made by the Member will be referred to the Additional Head Sirkar Vakil for his views and necessary action taken on receipt of his report. In regard to the last point, the Member will do well to have the matter placed before the High Court for an authoritative ruling.

32. Amendments to the Municipal Law of Travancore.

Mr. G. Raman Tampi B. A. & B. L. (Member, T. I. C., Quilon) prefaced his remarks with saying that he had an opportunity of discussing with the Additional Head Sirkar Vakil the memo forwarded by the Quilon T. I. C. on the Municipal Bill and that he had, therefore, made up his mind to limit himself to only a few salient points.

Firstly, the executive should be made responsible to the Committee. There was some misapprehension that, if that power was given to the Committee, there would be difficulties. From his experience he could say that the difficulty was the other way. The existing arrangements had placed the Members of the Committee under some serious disadvantages in regard to the practical carrying on of business. Smooth and satisfactory work depended always on the personal temperament and habits of the President.

Dewan.—What is your suggestion? Is it that these servants should be made responsible to the Members of the Committee also in the sense that they should individually obey the orders of the Members?

Member.—If the power of appointment and dismissal is vested in the Committee in preference to the President, I think that a great deal of trouble could be got over.

Dewan.—Would you place any limit with reference to their appointment and dismissal as regards pay, or would you have it that all the servants should be appointed by the whole Committee?

Member.—I would submit that every one of the servants of the Committee, without any limit whatsoever, should be appointed by the Committee. In several cases, the Presidents are, no doubt, good gentlemen and we have absolutely nothing to complain against them. During my five years' experience, I have come across instances where I always felt that, if the servants of the Committee were responsible to the Committee directly, many difficulties in the way of administration of business could have been avoided. In this matter, I am voicing the opinion of a large body of the Members of the Town Improvement Committees in Travancore. Therefore, I request that, when the time comes for the consideration of the Bill in the Council, this matter may receive the serious and earnest attention of the Government.